

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARLON K. TYLER,)
vs.)
Plaintiff,)
vs.) 2:05-cv-00662-WMA-JEO
MITCH ETHERIDGE, et al.,)
Defendants.)

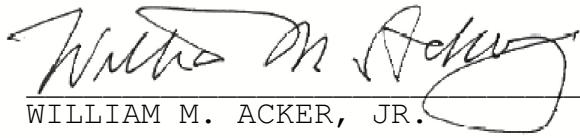
ORDER

____ In accordance with the Memorandum of Opinion entered contemporaneously herewith, the magistrate judge's report is hereby **ADOPTED** and the magistrate judge's recommendation is **ACCEPTED**. The Court **EXPRESSLY FINDS** that there are genuine issues of material fact with regard to: (1) the plaintiff's Eighth Amendment claim for excessive force against Defendants Etheridge and Krukowski; (2) the plaintiff's state law claim for assault and battery against Defendants Etheridge and Krukowski; and (3) the plaintiff's Eighth Amendment failure to protect claim against Defendants Jones, Carter, Arthur, and Dean. The defendants' motions for summary judgment as to these claims are due to be **DENIED**.

The Court **EXPRESSLY FINDS** that there are no genuine issues of material fact with regard to: (1) the plaintiff's state law claim for assault and battery against Defendants Jones, Carter, Arthur, and Dean; (2) the plaintiff's Eighth Amendment excessive force claim against Defendant Bullard on the basis of supervisory liability; (3) the plaintiff's Eighth Amendment conditions of confinement claims against Defendants Bullard and Campbell; (4) the plaintiff's Fifth and Sixth Amendment claims; (5) the plaintiff's Fourteenth Amendment Due Process & Equal Protection claims; (6) the

plaintiff's conspiracy and retaliation claims; (7) the plaintiff's claims against Defendant John Doe Medical Administrator; (8) the plaintiff's Eighth Amendment claim for inadequate medical care against Defendant PHS; and (9) the plaintiff's claim against PHS for medical malpractice claim. The defendants' motions for summary judgment are due to be **GRANTED** as to these claims and the same are **DISMISSED WITH PREJUDICE**.

DONE this 17th day of December, 2007.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE